

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

BRANDON ARCHITECTS, INC.

Plaintiff,

v.

OLERIO HOMES, LLC

Defendant.

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Civil Action No. _____

PLAINTIFF BRANDON ARCHITECTS INC.'S ORIGINAL COMPLAINT

COMES NOW, Plaintiff Brandon Architects, Inc. (hereinafter "Brandon Architects") and files its Original Complaint for copyright infringement against Defendant Olerio Homes, LLC ("Olerio").

I. PRELIMINARY STATEMENT

1. This is a copyright infringement case under 17 U.S.C. §501. The Defendant Olerio has constructed, marketed, advertised, and sold residences derived from Brandon Architects' copyrighted architectural designs. Although Brandon Architects sent a cease-and-desist letter to Olerio, Olerio continues to use the designs without authorization and has violated Brandon Architects' rights to the designs, for which copyrights have been duly registered.

II. PARTIES

2. Plaintiff Brandon Architects, Inc. is a corporation organized under the laws of the State of California with its principal place of business at 151 Kalmus Drive, Suite G-1, Costa Mesa, California 92626.
3. Defendant Olerio Homes, LLC is a Texas limited liability company whose sole member is located at 6310 Lemmon Ave, Suite 202, Dallas, Texas 75209. It may be served with

Summons and Complaint by serving its President and registered agent, Louis M. Olerio, at that same address.

III. JURISDICTION AND VENUE

4. The Court has jurisdiction over this lawsuit under 28 U.S.C. §1338 because the claims arise under the federal Copyright Act of 1976, as amended, 17 U.S.C. §101 *et seq.*
5. Venue is proper in the United States District Court for the Northern District of Texas under 28 U.S.C. §1400(a) because it is the district where the Defendant resides or may be found.

IV. FACTS

6. Brandon Architects is an architecture firm specializing in the design of custom, luxury homes. Among the designs created by Brandon Architects is the Brandon Residence, the design for Brandon Architects' President, Chris Brandon's, personal residence.
7. The copyrights in the Brandon Residence designs have been registered in accordance with Title 17 of the United States Code.
8. The Brandon Residence was registered effective as of January 31, 2022, with registration number VA 2-285-175. A true and correct copy of the registration certificate is attached as Exhibit 1.
9. The Brandon Residence was constructed per plans first published in 2019. Photos of the residence have been featured in multiple publications such as California Home+Design and are publicly available on Brandon Architects' website and various social media outlets. A photograph of the front exterior of the Brandon Residence is attached as Exhibit 2.
10. Defendant Olerio is a builder and developer constructing luxury homes in the Dallas area.
11. Beginning in 2021, Olerio constructed at least two homes with design aspects identical to those of the Brandon Residence. Those aspects include, but are not limited to: the selection,

coordination, and arrangement of the front door, two garage doors, six large windows, shutters, roof lines, and lighting placement on the exterior of the homes. Photographs of the two infringing Olerio homes are attached as Exhibits 3 and 4.

12. The addresses of the infringing homes are 6504 Woodland Drive, Dallas, Texas 75225 and 4644 Southern Avenue, Highland Park, Texas 75209.

13. Olerio subsequently listed the homes constructed using the Brandon Residence design for sale on its website.

14. Olerio did not seek or receive permission to reproduce the Brandon Residence designs, nor was any credit or attribution given to Brandon Architects. Additionally, Brandon Architects has neither been asked nor agreed to the public display of the designs.

15. Given the identical placement of exterior elements of the Brandon Residence and Olerio's projects, Olerio's copying of Brandon Architects' plans is the only plausible explanation for the similarities.

16. On February 15, 2022, Brandon Architects, through counsel, sent a cease-and-desist letter to Olerio, detailing its position and belief that its copyright had been infringed. In that letter, Brandon Architects requested, among other things, the immediate cessation of the construction of uncompleted buildings built from Brandon Architects' design and the removal of Brandon Architects' designs from Olerio's website.

V. CAUSE OF ACTION FOR COPYRIGHT INFRINGEMENT

17. Brandon Architects realleges and incorporates by reference the allegations contained in paragraphs 6-16 of this Complaint as though set forth fully herein.

18. Brandon Architects complied in all respects with the Copyright Act 17 U.S.C. §101 *et seq.*, and with all other laws governing copyrights.

19. Brandon Architects' design of the Brandon Residence is copyrightable subject matter under the laws of the United States. 17 U.S.C. §102(a)(8).
20. Olerio's conduct as described above violates Brandon Architects' exclusive rights to the Brandon Residence designs as provided in 17 U.S.C. §106-122 and constitutes multiple acts of infringement of Brandon Architects' copyright in the Brandon Residence designs under in 17 U.S.C. §501.
21. As a remedy for such infringement, Brandon Architects asks the Court to enter an order awarding it its actual damages and the additional profits of Olerio Homes pursuant to 17 U.S.C. §504(a).
22. Brandon Architects also seeks to recover its costs and attorney's fees under 17 U.S.C. §505.

VI. JURY DEMAND

23. Plaintiff Brandon Architects asserts its rights under the Seventh Amendment to the U.S. Constitution and demands, in accordance with Federal Rule of Civil Procedure 38, a trial by jury on all issues.

VII. PRAYER

24. Plaintiff Brandon Architects, Inc. requests that the Court enter judgment against Defendant Olerio Homes, LLC for the following:
- (a) An award of it its actual damages and the additional profits of Olerio Homes pursuant to 17 U.S.C. §504(a) in an amount the Court finds just.
 - (c) Its costs and attorney's fees under 17 U.S.C. §505.
 - (d) Prejudgment and post-judgment interest.
 - (e) All other relief the Court deems appropriate.

Respectfully submitted,

**WADDELL SERAFINO GEARY RECHNER
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**ATTORNEYS FOR PLAINTIFF
BRANDON ARCHITECTS, INC.**

EXHIBIT 1

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

United States Register of Copyrights and Director

Registration Number

VA 2-285-175

Effective Date of Registration:

January 31, 2022

Registration Decision Date:

February 02, 2022

Title

Title of Work: Brandon Residence

Completion/Publication

Year of Completion: 2019

Date of 1st Publication: June 17, 2019

Nation of 1st Publication: United States

Author

- Author:** Brandon Architects, Inc.
- Author Created:** architectural work
- Work made for hire:** Yes
- Domiciled in:** United States

Copyright Claimant

Copyright Claimant: Brandon Architects, Inc.
151 Kalmus Drive, Suite G-1, Costa Mesa, CA, 92626, United States

Limitation of copyright claim

Material excluded from this claim: game room

New material included in claim: main residence, architectural work

Rights and Permissions

Organization Name: Brandon Architects, Inc.
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Email: chris@brandonarchitects.com
Telephone: (714)754-4040
Address: 151 Kalmus Drive, Suite G-1
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Certification

Name: Patrick Laurence, Esq.
Date: January 31, 2022

Correspondence: Yes

EXHIBIT 2



EXHIBIT 3

4644 Southern Avenue

4644 Southern Ave, Highland Park, TX 75209

Basic facts



EXHIBIT 4

6504 Woodland Drive

6504 Woodland Dallas, Texas 75225

Basic facts

